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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,671	07/03/2003	Beverly R. Agnew	0515.001	7343
34282	7590	12/08/2006		
QUARLES & BRADY STREICH LANG, LLP ONE SOUTH CHURCH AVENUE SUITE 1700 TUCSON, AZ 85701-1621				
			EXAMINER NAGUBANDI, LALITHA	
			ART UNIT 1621	PAPER NUMBER

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/613,671

**Applicant(s)**

AGNEW, BEVERLY R.

**Examiner**

Lalitha Nagubandi

**Art Unit**

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on elc: 10/2/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/03/2003.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Office Action***

Claims 1-16 are pending in this application. Claims 1-12 are considered for examination in this office action.

***Election/Restrictions***

Applicants' election without traverse of Group I claims 1-12, and fluoride as the species of medicinal agent for claim 12, in the reply to our earlier office action dated September 15<sup>th</sup> 2006 is acknowledged.

Claims 13-16 are withdrawn from further consideration as they are drawn to non-elected group.

The election requirement dated September 15<sup>th</sup> 2006 is made **FINAL**.

***Specification***

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1621

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 11 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Miller et al (US Patent No. 5,939,049 dated Aug 17, 1999).

Applicant claims a chew article for animals, comprising: a fabric sleeve and a solid edible product. The fabric sleeve comprises a natural-fiber material like cotton and the said sleeve is treated with a medicinal agent. Further, the medicinal agent is selected from the oral care ingredient group consisting of vitamins, minerals, fluoride, chlorophyll, urea, thymol, golden seal, peroxide, and salivary enzymes.

Miller et al disclose (see column 1 lines 5-55 and column 2, lines 50-55, US Patent No. 5,939,049 dated Aug 17, 1999) a chew article for animals, comprising a fabric sleeve consisting of an edible product. Further, the chewing article is made of natural fibers such as cotton (please see column 1, lines 45-55) and consists of a therapeutic agent like fluoride, thus anticipating the instant claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (US Patent No. 5,939,049 dated Aug, 17, 1999) and Kubo et al (US Patent No. 6,044,800 dated April 4, 2000).

Applicants claim a chew article for animals, comprising a fabric sleeve treated with a medicinal agent like fluoride. The fabric sleeve comprise of fabric strips arrayed in a criss-cross pattern.

Miller et al teach (See the whole document, US Patent No. 5,939,049 dated August 17<sup>th</sup>, 1999) a natural fiber-chewing article for animals comprising a therapeutic agent like fluoride. The instant claimed invention differs from the prior art by being directed to different design of the chewing article.

Kubo et al teach (please see Fig(s) 1, 2, and 3 US Patent No. April 4<sup>th</sup>, 2000) various designs of the chewing article. The instant claimed invention differs from the prior art by being directed to a fabric sleeve.

The difference between the Prior art and the claimed inventions is that the reference does not teach the invention with particularity so as to amount to anticipation

Art Unit: 1621

(See MPEP § 2131: “ the identical invention must be shown in as complete detail as is contained in the ..... claim.” Richardson v. Suzuki Moto Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913,1920 (Fed. Cir. 1989). The elements must be arranged as required by the claims, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. In re Bond, 910 F. 2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).).

However, based on the above, reference Miller and Kubo teach the elements of the claimed invention with sufficient guidance, particularity, and with a reasonable expectation of success, that the invention would be prima facie obvious to one of ordinary skill. The prior art reference(s) teach or suggest all the claim limitations with a reasonable expectation of success.

### ***Conclusion***

No claims are allowed

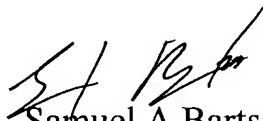
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalitha Nagubandi whose telephone number is 571 272 7996. The examiner can normally be reached on 6.30am to 3.30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571 272 0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lalitha Nagubandi  
Patent Examiner  
Technology Center 1600

November 29<sup>th</sup>, 2006.

  
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